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SYNOPSIS
Establishes certification program for zoning officers and land use board administrators.

CURRENT VERSION OF TEXT
Introduced Pending Technical Review by Legislative Counsel.
AN ACT concerning the education and oversight of zoning officers and land use board administrators and supplementing and amending P.L.1975, c.291.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. (New section) a. Commencing January 1 next following the second anniversary of the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill), a person shall not be appointed, reappointed, or permitted to continue employment as a zoning officer or land use board administrator unless that person holds a zoning officer certificate or land use board administrator certificate, as applicable, issued by the Department of Community Affairs pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill).

b. As a condition of continued employment after January next following the second anniversary of the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill), a person serving as a zoning officer or land use board administrator on that date shall have been issued a zoning officer or land use board administrator certificate.

c. Whenever a vacancy occurs in the position of zoning officer or land use board administrator by reason of the departure of a certified zoning officer or certified land use board administrator, the governing body or chief executive of a municipality, as appropriate, may appoint a person who does not hold a zoning officer certificate or land use board administrator certificate to serve as acting zoning officer or acting land use board administrator for a period not to exceed one year from the date of the vacancy. Any person so appointed may, with the approval of the Commissioner of Community Affairs, be reappointed as acting zoning officer or acting land use board administrator for one additional year following the termination of the temporary appointment. Time served as acting zoning officer or acting land use board administrator may be credited toward the experience authorized as a substitute for the college education requirement set forth in section 2 of P.L. , c. (C. ) (pending before the Legislature as this bill).

d. As used in P.L. , c. (C. ) (pending before the Legislature as this bill):

“Zoning officer” means an administrative officer authorized to issue permits, certificates, or authorizations pursuant to section 9 of P.L.1975, c.291 (C.40:55D-18).

“Land use board administrator” means the administrative official

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
who is appointed by, and serves at the pleasure of, the zoning board
of adjustment, notwithstanding possible employment by the
municipality in other positions or functions, and whose basic role is
to assist and advise property owners, developers, and other
interested persons in the practices and procedures of the land use
board, to maintain the records of the board, its calendar, and public
agendas, and to draft minutes of the board’s meetings. “Land use
board administrator” shall include the administrative secretary of a
municipal planning board and zoning board of adjustment.

2. (New section) a. The Commissioner of Community Affairs
shall establish a certification program for zoning officers and land
use board administrators within six months of the effective date of
P.L. , c. (C. ) (pending before the Legislature as this bill).
b. An applicant for a zoning officer certificate or land use
board administrator certificate shall present to the commissioner a
written application, on a form provided by the Department of
Community Affairs, showing that the applicant is not less than 21
years of age, is a citizen of the United States, is of good moral
character, has obtained a certificate or diploma issued after at least
four years of study in an approved secondary school or has received
an academic education considered and accepted by the Department
of Education as fully equivalent, has completed the course of study
in planning and zoning administration and enforcement required in
subsection c. of this section, and has completed at least two years of
education at a college of recognized standing. For the purposes of
this section, 30 college credits shall be considered equivalent to one
year of college. The commissioner may allow an applicant who
does not meet the two-year college requirement to substitute, on a
year for year basis, full-time experience or the equivalent part-time
experience in a position involving municipal land use, planning, and
zoning. The commissioner, by rule and regulation, may establish
additional requirements for certification that the commissioner
determines to be reasonable and appropriate to further the
professionalism of the position of zoning officer and land use board
administrator. Each completed application shall be accompanied by
a fee in the amount of $50 payable to the State Treasurer.
c. (1) A condition for issuance of a zoning officer certificate
or land use board administrator certificate shall include satisfactory
completion of a course of study in planning and zoning
administration or zoning enforcement. The commissioner shall
work in conjunction with a Land Use Education Advisory Board
comprised of representatives from the New Jersey Association of
Planning and Zoning Administrators, the New Jersey Planning
Officials, the New Jersey State League of Municipalities, the New
Jersey Chapter of the American Planning Association, the New
Jersey Builders Association, and the Center for Government
Services at Rutgers, the State University of New Jersey in
establishing standards for curriculum and administration of the
courses of study.

(2) The curriculum for these courses of study shall include at
least 40 hours of instruction designed to prepare an individual to
perform the duties of a zoning officer, and at least 30 hours of
instruction designed to prepare an individual to perform the duties
of a land use board administrator, including coursework on:
(a) the technical and knowledge and skills necessary for
effective interpretation and enforcement of municipal zoning
ordinances and applications for development;
(b) the “Municipal Land Use Law,” P.L.1975, c.291 (C.40:55D-1 et seq.);
(c) the content and structure of zoning ordinances;
(d) the content and structure of master plans;
(e) site plan and subdivision review, including technical aspects
of plan review, administrative processing requirements, planning
and engineering terminology;
(f) ethical obligations; and
(g) record keeping and requirements for public access to
records.
The curriculum for zoning officers shall also include practical
issues, including enforcement actions, conducting site inspections,
and compliance options.

(3) The commissioner may determine the appropriate number of
courses to best impart the desired curriculum. At the completion of
each course, examinations shall be administered to each enrollee to
determine whether the enrollee has attained a satisfactory level of
knowledge of the course material.

(4) The commissioner may allow credit for coursework
completed prior to the effective date of this act if the commissioner
determines that the coursework was substantially similar to that
required pursuant to this section and that the applicant can
demonstrate, to the commissioner’s satisfaction, satisfactory
completion of the coursework.

d. (1) Following the establishment of the certification program,
pursuant to subsection a. of this section, the Director of the Office
of Local Planning Services in the Department of Community
Affairs, with the advice of the Land Use Education Advisory Board,
shall hold examinations semiannually, and at such other times as
may be deemed appropriate, for certification as zoning officer or
land use board administrator, or both. The examination shall be
written and shall be of such character as to fairly test and determine
the qualifications, fitness, and ability of the person tested to actually
perform the duties of zoning officer or land use board administrator.

(2) An applicant for examination shall furnish proof to the
director, not less than 30 days before the examination that the
applicant meets the qualifications in accordance with subsection b.
and paragraph (2) of subsection c. of this section. Each completed
application for the State examination shall be accompanied by a fee in the amount of $50 payable to the State Treasurer.

(3) Zoning officers or land use board administrators who are employed in that capacity on the effective date of P.L. , c. (C ) (pending before the Legislature as this bill) and who meet the qualifications in accordance with subsection b. and paragraph (2) of subsection c. of this section shall be exempt from the State examination required under this subsection.

e. Upon a finding by the director that an applicant has successfully completed the examination, the applicant may apply for a certificate pursuant to the provisions of subsection b. of this section.

f. Within 30 days of receipt of a complete application for certification, the commissioner shall provide the applicant with a zoning officer certificate or land use board administrator certificate, valid for a period of three years from the date of issuance, or a letter specifying the basis for refusing to issue a certificate.

3. (New section) a. The Commissioner of Community Affairs shall maintain a registry of zoning officer certificate and land use board administrator certificate holders and make access to the registry available on the Department of Community Affair’s Internet website. Within 60 days of the effective date of P.L. , c. (C ) (pending before the Legislature as this bill), the commissioner shall survey each municipality for the name of any person serving as zoning officer and land use board administrator in the municipality. The registry shall be constructed so that it may be searchable by the name of the certificate holder and the name of the employing municipality.

b. Commencing 30 days after the effective date of P.L. , c. (C ) (pending before the Legislature as this bill), a person shall not accept an appointment or reappointment as a zoning officer or land use board administrator without first notifying the commissioner of the appointment or reappointment. If the prospective appointee serves as a zoning officer or land use board administrator in any other municipality or also serves as a construction official or subcode official in the appointing municipality or in any other municipality, the appointee shall notify the commissioner of the terms, conditions, and duties associated with each appointment.

c. The commissioner shall analyze the submitted information, and may request additional detail, investigate, and determine that an individual is unable to fulfill the terms, conditions, and duties of the multiple employments. The commissioner may enter into discussions and agreements with the employing municipalities and the individual in order to ensure that the employment of a zoning officer or land use board administrator does not result in
understaffing in a municipality due to competing obligations of the individual.

d. A zoning officer certificate or land use board administrator certificate may be revoked or suspended by the commissioner for dishonest practices, or willful or intentional failure, neglect, or refusal to comply with the Constitution of the State of New Jersey or laws relating to the duties of the zoning officer or land use board administrator, or other good cause. The governing body or chief executive officer of any municipality, or any aggrieved individual, may request a review by the commissioner of the practices of a zoning officer or land use board administrator. The commissioner may also initiate a review of the behavior or practices of a zoning officer or land use board administrator if the commissioner finds it advisable to do so through the normal exercise of the commissioner’s statutory duties and responsibilities. A zoning officer certificate or land use board administrator certificate shall not be revoked or suspended except upon a proper hearing before the commissioner or the commissioner’s designee after due notice. If a zoning officer or land use board administrator certificate is removed from office by the commissioner, the office shall be declared vacant, and the person shall not be eligible to hold that office, or make application for recertification, for a period of five years from the date of the revocation.

4. (New section) The Commissioner of Community Affairs shall issue an endorsement renewing a zoning officer certificate or land use board administrator certificate within 30 days of receipt of a complete application for renewal. A $50 fee payable to the State Treasurer, and upon verification that the applicant has satisfactorily completed at least 20 hours of continuing education in subject areas related to the duties of zoning officer or land use board administrator. The Director of the Office of Local Planning Services in the Department of Community Affairs shall work in conjunction with the Land Use Education Advisory Board to establish acceptable continuing education courses and to recognize suitable course offerings that may be afforded continuing education credit. This advisory board also shall establish the curriculum areas and the number of hours in each curriculum area that a zoning officer or land use board administrator shall complete in order to renew a certificate.

Each renewal endorsement shall be for a period of three years from the expiration date of the original certificate or most recent renewal endorsement.

5. (New section) The Commissioner of Community Affairs shall adopt rules and regulations pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) as may be
necessary to effectuate the purposes of P.L. , c. (C. ) (pending before the Legislature as this bill).

6. (New section) Nothing in P.L. , c. (C. ) (pending before the Legislature as this bill) shall be construed as requiring a municipal governing body to pay any of the costs an individual may incur in complying with the requirements for obtaining or renewing a zoning officer certificate or land use board administrator certificate. A municipal governing body, by resolution, may determine to reimburse an individual for all or any portion of the costs an individual may incur. For the purposes of this section, the term “costs” shall include but not be limited to the costs associated with course registration, application fees, transportation and leaves of absences.

7. Section 9 of P.L. 1975, c.291 (C.4055D-18) is amended to read as follows:

9. Enforcement. The governing body of a municipality shall enforce this act and any ordinance or regulation made and adopted hereunder. To that end, the governing body may require the issuance of specified permits, certificates or authorizations as a condition precedent to (1) the erection, construction, alteration, repair, remodeling, conversion, removal or destruction of any building or structure, (2) the use or occupancy of any building, structure or land, and (3) the subdivision or resubdivision of any land; and shall establish an administrative officer and offices for the purpose of issuing such permits, certificates and authorizations; and may condition the issuance of such permits, certificates and authorizations upon the submission of such data, materials, plans, plats and information as is authorized hereunder and upon the express approval of the appropriate State, county or municipal agencies; and may establish reasonable fees to cover administrative costs for the issuance of such permits, certificates and authorizations. In addition to covering the administrative costs for the issuance of permits, certificates and authorizations, these fees may be used to defray the cost of satisfying the educational requirements established pursuant to P.L. , c. (C. ) (pending before the Legislature in this bill).

The administrative officer shall issue or deny a zoning permit within 10 business days of receipt of a request therefor. If the administrative officer fails to grant or deny a zoning permit within this period, the failure shall be deemed to be an approval of the application for the zoning permit. In case any building or structure is erected, constructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this act or of any ordinance or other regulation made under authority conferred hereby, the proper local authorities of the municipality or an interested party, in addition to other remedies, may institute any
appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

(cf: P.L.2001, c.49, s.1)

8. This act shall take effect immediately.

STATEMENT

This bill would professionalize the positions of zoning officer and land use board administrator by establishing a certification program for the positions. A zoning officer is defined in the bill as the designated administrative officer in the Municipal Land Use Law authorized to issue permits, certificates, or authorizations under that statute. The land-use development process in New Jersey is extremely complicated as governed by the Municipal Land Use Law and a myriad of other local laws and State statutes. However, currently, an individual may assume the position of zoning officer or land use board administrator in a municipality without any background or experience. This absence of threshold requirements for these important municipal positions stands in stark contrast to other essential municipal positions, such as municipal clerk, municipal finance officer, tax assessor, tax collector, construction code official and subcode officials, registrar, and public works manager, where State certifications are required. In addition, in some circumstances, individuals assume responsibilities in more than one municipality, resulting in potential conflicts that make it difficult or impossible for the individual to satisfactorily perform duties in multiple employments. By establishing minimum qualifications for employment as a zoning officer or land use board administrator and by subjecting those seeking multiple employments to independent scrutiny and control, the municipalities and residents of this State will be better served. The bill will benefit both an applicant and the municipality by ensuring that the officers responsible for managing land-use development have the skills, knowledge and time necessary to effectively implement local zoning and development ordinances. The end result will be a more predictable and reliable process Statewide.

Under the bill, after a transition period of at least two years, a person would not be appointed, reappointed, or continue to serve as a zoning officer, or land use board administrator, unless that person has been issued a zoning officer or land use board administrator certificate by the Department of Community Affairs.
The Commissioner of Community Affairs would be required to establish a certification program for zoning officers and land use board administrators within six months of the effective date of the bill. The bill would establish minimum standards for applicants seeking certification, including: at least 21 years of age, United States Citizenship, good moral character, and a high school diploma or its equivalent. An application for certification would also have to demonstrate completion of at least two years of education at a college of recognized standing, or in lieu thereof, relevant work experience, as well as completion of a course of study in planning and zoning administration and enforcement. The bill would also allow the commissioner to establish additional requirements for certification that the commissioner determines to be reasonable and appropriate to further the professionalism of the positions of zoning officer and land use board administrator.

The bill provides that the commissioner would establish standards for curriculum and administration of the course of study in planning and zoning administration and in conjunction with the New Jersey Association of Planning and Zoning Administrators, the New Jersey Planning Officials, the New Jersey State League of Municipalities, and the Center for Government Services at Rutgers, the State University of New Jersey.

Certification would require at least 40 hours of instruction designed to prepare an individual to perform the duties of a zoning officer and at least 30 hours of instruction designed to prepare an individual to perform the duties of land use board administrator, including coursework on:

- The technical knowledge and skills necessary to for effective interpretation and enforcement of municipal zoning ordinances and applications for development;
- The Municipal Land Use Law;
- The content and structure of zoning ordinances;
- The content and structure of master plans;
- Site plan and subdivision review, including technical aspects of plan review, administrative processing requirements, planning and engineering terminology;
- Ethical obligations;
- Record keeping and requirements for public access to records; and
- For the zoning officer, practical issues, including enforcement actions, conducting site inspections and compliance options.

At the completion of each course, examinations would be administered to determine if the enrollee has attained a satisfactory level of knowledge. At the completion of the course of study, certificate candidates would be required to take and pass a State exam.
Zoning officer and land use board administrator certificates would be valid for three years from the date of issuance, and could be renewed for additional three-year periods if the applicant complies with continuing education requirements. Applicants for certifications and for renewals would pay a $50 fee.

The bill will also require the Commissioner of Community Affairs to maintain a registry of zoning officer and land use board administrator certificate holders and make access to the registry available on the Department of Community Affairs website.

The bill would prohibit a person from accepting an appointment or reappointment as a zoning officer or land use board administrator without first notifying the commissioner of the appointment or reappointment. If the prospective appointee serves as a zoning officer or land use board administrator in any other municipality or also serves as a construction official or subcode official in the appointing municipality or in any other municipality, the appointee would be required to notify the commissioner of the terms, conditions, and duties associated with each appointment.

The commissioner would be empowered to determine that an individual is unable to fulfill the terms, conditions, and duties of the municipal employments. The commissioner would be authorized to enter into discussions and agreements with the employing municipalities and the individual in order to ensure that the employment of a zoning officer does not result in understaffing in a municipality due to competing obligations of the individual.

The bill would empower the commissioner to revoke or suspend a zoning officer or land use board administrator certificate, after due notice and a proper hearing, if the holder thereof engaged in dishonest practices, or willful or intentional failure, neglect, or refusal to comply with the Constitution of the State of New Jersey or laws relating to the duties of the zoning officer or land use board administrator, or for other good cause. If a zoning officer certificate or land use board administrator certificate is revoked, the person would be removed from office by the commissioner, the office would be declared vacant, and the person would not be eligible to hold that office, nor make application for recertification, for a period of five years from the date of revocation.

The bill does not impact or override civil service requirements and procedures, nor does it supersede the appointing authority of municipalities for the positions of zoning officer and land use board administrator.